

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAWRENCE R. DATTORY,

Plaintiff,

-against-

OFFICER O'NEIL, and CAPTAIN SUTTON,

Defendants.

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISMISSAL**

07 Civ. 739 (CLB)(LMS)

WHEREAS, plaintiff commenced this action by filing a complaint on or about January 31, 2007 alleging that defendants violated plaintiff's federal civil rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, plaintiff has authorized his counsel to settle this matter on the terms set forth below:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff the sum of FOUR THOUSAND FIVE HUNDRED (\$4,500.00) Dollars in full satisfaction of all claims, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum,

plaintiff agrees to dismissal of all the claims against the individually named defendants and to release all defendants, any present or former employees and agents of the City of New York, and the City of New York, from any and all liability, claims, or rights of action that have or could have been alleged by plaintiff in this action arising out of events alleged in the complaint in this action, including claims for costs, expenses and attorney's fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by the defendant that it has in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York, or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subjectmatter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

Feb 15, 2008

CHRISTOPHER D. GALIARDO, ESQ.
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By:

Christopher D. Galiardo (CG 72817)

MICHAEL A. CARDOZO
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City of New York
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By: D. Heim
Douglas W. Heim (DH5238)
Assistant Corporation Counsel

SO ORDERED:

Feb 15, 2008

Charles Bricant

U.S.D.J.